

STATE OF TENNESSEE

Office of the Attorney General



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May 5, 2002

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Rulemaking Amendment of Regulations for Telephone
Service Providers, Docket No. 00-00873

Dear Mr. Waddell:

By letter dated May 1, 2002, BellSouth Telecommunications, Inc. ("BellSouth") notified the Tennessee Regulatory Authority ("Authority") that it was "perplexed" by the Authority's action in placing the above-captioned matter on the Agenda for the May 7, 2002 Director's Conference for the delivery of "oral comments" by interested parties. In its May 1, 2002 correspondence, BellSouth asserts that given the status of this rulemaking, the receipt by the Authority of oral comments would "be extremely time consuming and wasteful . . ." The Attorney General agrees that additional oral comments which could only be a reiteration of an extensive and mature record are unnecessary.

The Notice of Rulemaking in this matter is dated September 29, 2000. Since that time, the Authority has made extensive attempts toward accommodating BellSouth and the industry in their request for the opportunity to be heard with respect to the development of the proposed rules. On December 11, 2000, BellSouth and the participating industry members filed a Joint Motion seeking workshops and extension of the deadline for filing comments regarding the proposed rules. The Authority granted the request extending the deadline for filing comments and scheduling workshops open to the interested parties, as well as the public in general. In fact, three separate workshops were held. Subsequently, the Authority published revisions to the proposed rules in August, 2001. The parties were allowed 60 days to submit additional

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comments.¹ The comment period was extended for an additional period at the request of BellSouth. Subsequent to the comment period, BellSouth requested an evidentiary hearing. This request by BellSouth was opposed by the Attorney General's Office. Although the May 1, 2002 BellSouth correspondence ignores this fact, it is apparent that the Authority's choice to allow oral comments at the May 7, 2002 Director's Conference is a further accommodation of BellSouth's wishes. The Authority has properly noticed this rulemaking proceeding.² All parties interested in participating in this rulemaking procedure have been provided ample opportunity to do so.

To the extent the Directors or the Authority's staff believe that oral comments at this stage of the proceedings are necessary, the Attorney General's Office certainly does not object and will participate. However, considering the extensive nature of this record, oral comments will add little to the knowledge necessary for the Authority to strike the proper balance between the needs of the industry involved and the consumers of Tennessee. In its May 1, 2002 correspondence, BellSouth clearly rejects the accommodation envisioned by the Authority in allowing the interested parties to present oral comments at the May 7, 2002 Directors Conference.

By letter dated May 2, 2002, the Authority responded to BellSouth and the industry with yet a further accommodation not required by the applicable law. The Authority has extended to BellSouth and the industry every conceivable courtesy with respect to the rulemaking. In fact, the Authority granted BellSouth's request in full.

However, on May 3, 2002, the industry filed an additional "Request." This time the industry wants additional time to review the draft of the rules. The industry finds fault with the Authority for not publishing a "redlined" version of the rules.³ Yet, the industry does not ask for a "redlined" version of the rules, but seeks additional time. It is obvious that the goal of BellSouth and the industry is not obtaining a fair review, rather their goal is delay.

¹ AT&T submitted the first written comments on November 14, 2000. The comment period ended on October 26, 2001. As a result of the extensions requested by the industry, the Authority has already received comments over a period just three (3) weeks short of a year.

² US Life Title Insurance Company vs. Department of Commerce and Insurance 770 SW2d 537 (Tennessee Appeals 1988).

³ The industry makes no claim in its May 3, 2002 correspondence that the Authority refused a request to provide a "redlined" version.

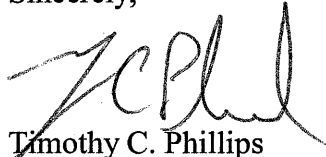
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The Attorney General respectfully requests that the Authority either withdraw the offer to the industry to make oral comments or at the very least stick to the schedule as originally intended. The industry has lost sight of the fact that the scheduling of the oral comments is a courtesy extended to the industry.

Sincerely,

A handwritten signature in dark ink, appearing to read 'TC Phillips', with a long horizontal stroke extending to the left.

Timothy C. Phillips
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CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2002, a copy of the foregoing document was served on the parties of record, via facsimile:

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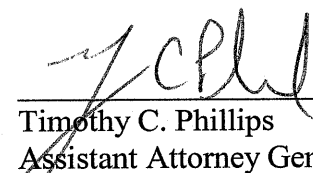
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